



Mr. Lawrence Sacks  
Colombia Country Director  
USAID  
U.S. Embassy  
Bogota, Colombia

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Dear Mr. Sacks,

As we enter our 14<sup>th</sup> annual consultation with U.S. civil society concerning USAID's programs in Colombia, it makes me reflect on what a different place we are in today than we were in 2004. USAID's programming is far better targeted, more sophisticated, and provides far better results. In particular, we see how USAID has made a tremendous effort to change its programs for ethnic groups in order to meet the criteria and recommendations many of our ethnic partners have made over the years. Most notably, USAID provided important assistance to Afro-Colombian and indigenous groups so they could realize their demands of inclusion in the peace process and subsequent development of the Ethnic Chapter. The Ethnic Chapter is not only key to safeguarding Colombian ethnic minorities' rights but also serves as an example for other peace processes around the world. So much so that with the support of Noref, Ethnic Commission representatives were able to meet with indigenous authorities throughout the Philippines to see how this effort could be replicated in their peace process.

A second area we wish to highlight is making Colombian civil society, including CODHES and the Pastoral Social, and now Afro-Colombian and indigenous groups, those who directly implement civil society funds. As an organization that has recommended this for the past 13 years, we are happy to see things moving in this direction.

Prior to these meetings, we survey all of our Colombia partners (NGOs, academics, think tanks, ethnic authorities, social leaders, unionists and others), both those that receive USAID funding and those that do not, so we can present to you informed analysis, concerns and recommendations. We greatly appreciate USAID's willingness to do this and

for often taking into account our recommendations. We also find that doing this in Bogota with a broad sector of Colombian civil society, as occurred on October 5, is also valued.

Keeping in mind that the following is meant to improve USAID's programming, we split this document up into two parts. The first raises thematic areas and recommendations in that regard. The second summarizes perspectives we received on USAID's program and the operators that implement it.

### Thematic Considerations:

#### ***Security Crisis Confronting Social Leaders***

The biggest concern expressed by all who were surveyed is the security crisis facing human rights defenders, social leaders and ethnic minority communities. This problem, which USAID is aware of given that you receive all of WOLA's urgent actions and other reports on the issue, is one that requires a multi-faceted response that includes prevention, protection and justice in crimes committed by the perpetrators. The following analysis and recommendations are hampered by the fact that the Duque Administration has yet to reveal its policy to protect social leaders.

While the U.S. political attention to the security risks faced by trade unionists and labor activists has decreased since the FTA passed, it is noteworthy that in recent times their security situation is getting worse. From January 1 until August 28, there were 14 trade unionists killed and more than 134 death threats registered, last year in 2017 there were 9 murders. It is essential that USAID continue to fully integrate the security issues concerning labor activists and labor rights pertaining to the U.S.-Colombia Labor Action (PAL) in its programming.

While the efforts undertaken by the Procuraduria and Fiscalia, including the Apartado event where President Duque signed the Uraba Pact, are reassuring, the government thus far has shown no other advancements. It has not convened the Commission for Security Guarantees stipulated in the peace accords or taken steps to strengthen the self-protection measures (*guardia indigena* and *cimarrona*) found in the Ethnic Chapter. The administration has not met with the Mesa Nacional de Garantias, the Ethnic Commission or other civil society groupings closely working closely on these matters outside of Apartado to design a follow up mechanism to Apartado.

Prior to diving into the different aspects of protection, the obvious should be noted. The statements made by the Minister of Defense against social leaders and social protests make such persons more vulnerable to harm. All entities of the U.S. government should condemn statements that stigmatize, misrepresent and otherwise general security

problems for social leaders. Peaceful social protests are an indication of a healthy democracy. Restricting such spaces would be a major step backwards for a post-conflict Colombia.

### *Prevention*

Adequate steps to prevent further killings and attacks against social leaders require efforts to destigmatize them, make Colombian society care about these killings, value the work of social leaders and improve both the work done by governmental and semi-independent institutions on this matter, as well, as civil society's capacity to effectively be taken into account by those responsible for protection and justice in these cases.

Also, it requires a concerted effort to dismantle existing illegal armed groups, from guerillas, dissident guerillas, paramilitaries to criminal gangs. In order to address security challenges faced with the ELN guerillas, the peace negotiations with that group must continue and be supported by the U.S. and international community. To minimize the growth of guerilla dissidents, the Colombian government must be urged to give adequate resources and prioritize implementing the reintegration of former combatants.

In parts of the country where the military is present, notably the Pacific Coast, oversight that guarantees that members of the armed forces are fulfilling their obligation to protect civilians, not colluding with illegal groups or looking the other way when such groups are present in the territories. In particular, it is important that the Special Unit, created by the Peace Accord within the Fiscalía, investigations are operational and effective.

Civil society in general appears to have a positive image of the work done by the Human Rights Ombudsman's office. Many feel that the Defensor's greater visibility in the media, public statements and willingness to visit areas previous Defensores' did not like the Pacific Coast and to accompany more controversial human rights situations are positive. Areas in particular where the Defensoria's work has advanced include the Bajo Atrato and Tumaco. However, there is a need to strengthen this office's capacity to act in remote areas beyond visits. The Early Warning System also requires teeth, monitoring and a push so that the institutions that should act to prevent abuses to do so in a timely and efficient manner. Also when they do not act there is the need to sanction them for not doing so.

### *Protection*

Physical protection mechanisms alone will not guarantee the safety and security of social leaders. They do serve as a deterrent when social leaders can get them, they are properly assigned and applied and the subcontractor guarantees the necessary tools for their

success. Unfortunately, when it comes to social leaders' protection mechanisms, many challenges remain.

Integral regional protection plans are required that combine security with sanctions against the individual and intellectual authors of crimes against social leaders. Plans to support the development of regions must include efforts to provide security for communities. The capacity of judges and magistrates to act in a transparent manner on cases involving the protection of social leaders is required. In addition to tackling the bottlenecks that exist within the Attorney General's office that do not allow it to combat rampant impunity, institutions and government officials who do not do their jobs should be sanctioned.

There is an urban and rural divide when it comes to protection measures. Measures designed for urban settings like Bogota, do not work, are insufficient or increase the vulnerability of defenders in rural areas. As such, mechanisms employed in rural sectors in particular often work better if they are collective and designed jointly with those at risk. The socio-economic situation of social leaders in rural areas is also different so such measures need to take this into account. Security dynamics and what works best in a particular setting varies greatly depending on the region and its topography.

Collective protection measures should be designed and implemented by the beneficiaries. The type of support given to such measures needs to be determined with the community or group in question. For example, there are many non-violent self-protection mechanisms like the peace communities, humanitarian, urban and biodiversity zones that former IDPs, victims and resistant communities decide to apply to their situation. In some of these cases, what these communities are asking for is not so much funds for the zones themselves but funds that allow them to do the political and advocacy work required at the national and international level to guarantee that such mechanisms have teeth and generate effective responses to threats and emergency situations.

#### *Differentiated Approach towards Afro-Colombians, Indigenous, women and LGBTI*

Protection for ethnic groups needs to be focused in three areas. All of whom should follow the principles embodied in the Ethnic Chapter, in particular previous consultation and full participation of the beneficiaries of that protection. The three areas are: individual cases, collective protection and strengthening of the autonomous self-protection mechanisms found in the Ethnic Chapter—indigenous and cimmarona guard.

Individual protection mechanisms for ethnic groups must take into account proper documentation of the threat faced by the person within the context of his or her community and their role on behalf of the group they belong to. Often, the CERREM, for

example do not integrate the implications to the survival of the ethnic group concerned when considering the gravity of threats. All Colombian institutions involved in security for leaders should be subject to cultural diversity and sensitivity training. Racial discrimination often plays a role in minimizing the threat against individuals which leads to a response and assigned mechanisms that are inadequate for the situation.

Collective protection mechanisms should be oriented to strengthening autonomous self-protection mechanisms such as the indigenous and cimmarona guards. Colombia does not have the capacity to fully provide protection in remote ethnic communities or areas of the country where institutionally it is very weak. As such, it should make agreements with communities to build the capacity of these mechanisms to be properly trained, strengthen their policies, plans and modes of action so that they can be effective. These entities require strengthening so they can share best practices and develop community level prevention and protection plans.

USAID should support Afro-Colombian and indigenous organizations so they can better systematize, document and report the abuses committed against their peoples. Also, it should continue to strengthen such organizations and their authorities so they can raise awareness of the security and rights gaps their communities face and push for action.

### *Justice*

The results in terms of justice are minimal given the gravity of the problem. An independent evaluation is required to determine several items: 1) why is the justice system functioning so poorly, 2) what are the bottlenecks in the system, 3) how effective is the system in addressing the cases involving ethnic minorities, 4) the best strategy to employ for reforming and improving the system so it can quickly respond to cases of threats, attacks and killings of social leaders.

One initiative which has resulted in positive developments is the *Lidera la Vida* campaign lead by the *Procuraduria* in conjunction with *Defensoria*, CODHES, AFRODES, ONIC, Pastoral Social, *Caracol* and *El Espectador*. This effort was positive in humanizing and sensitizing the broader public on the importance of the work of social leaders and how assassinations do not only end the lives of the person who is killed but undermine the causes they are advocating for. Also this initiative is positive because it brings together the agencies mandated to monitor implementation of rights and the press with prominent human rights organizations.

In sum, USAID should direct its financing and support to initiatives that obtain results, not new normative frameworks, plans, commissions or high level events. Efforts like the *Lidera la Vida* campaign should be expanded.

### ***Implementation of the Peace Accord***

We heard from almost everyone we surveyed that USAID must continue to implement the peace accord. There is an overall sense that things are moving backwards when it comes to peace implementation. Also, that the Duque government will not follow through on the commitments made in the accord especially when it comes to transitional justice, rural land reform and political participation. There is concern over the Duque government potentially restarting the aerial fumigation program and statements made by the U.S. Ambassador on anti-narcotics efforts.

All think that the U.S. and international community should continue to robustly support peace implementation and not let neither the Duque Administration nor the Colombian Congress or other institutions just implement the minimum necessary needed to say they are advancing when they are not. Aspects of the peace process are under threat due to legislation introduced in the Colombian Congress, unilateral actions by the Duque administration, the *Fiscalia* undermining the Special Jurisdiction for Peace and the radical positions held by particular members of the Democratic Center including former President Uribe.

Furthermore, all expressed concerns about the U.S. pressuring the Colombian government to take steps that may weaken the illicit drugs part of the accord. In particular, there is concern about reverting back to the ineffective, costly and very damaging aerial fumigation program to reduce coca crops. While the health and environmental questions are problematic throughout the country, there is particular concern that in ethnic communities where the only source of water are the rivers that such an effort would be highly detrimental to these persons. In the Pacific region, contamination of water sources due to illegal gold mining is producing many problems of unsustainability, environmental degradation, food insecurity and health for ethnic groups. Therefore, adding further chemicals to the mix would only compound this problem.

In terms of transitional justice, it is important that USAID support the work of the JEP, Truth Commission and Unit for the Disappeared (UBPD). While strengthening the institutions themselves is needed so is guaranteeing that victims and victims' organizations can properly participate in this system in an effective manner is also required. It is important that the transitional justice system reaches particularly affected and emblematic

areas of the country. Also, that victims and their organizations receive technical, judicial and psychosocial support so they can properly participate in the process.

### ***Afro-Colombian and Indigenous Communities***

As noted above, the programming directed to Afro-Colombian and indigenous communities is perhaps the aspect of support that has gone through the most transformations for the better. It has helped to raise the visibility of ethnic groups, abuses committed against them and supported their inclusion in the peace process. It is also positive that over the years both USAID and its contractors have taken steps to diversify their staff in order to better meet the needs of these populations.

We are particularly pleased to see that USAID has put out a call for proposals directed to Afro-Colombian and indigenous authorities. For this, it is important that when determining who receives aid, that it is not done so in a manner that pits groups against each other or otherwise divides them. Also, the assistance should go to strengthening already existent autonomous leadership arrangements, credible and effective coalitions and not the creation of new groupings just to absorb the aid. The assistance must respect the way these communities operate and not impose upon them models from other countries. Also, it is important that the aid go to their self-elected authorities and credible, long-term organizations with a proven track record of work with these populations. Assistance should be well balanced between the national level and the territories.

Strengthening ethnic organizations is the best investment that USAID can make to improve the rights and socio-economic issues faced by these populations. It is important that within the strengthening, building collective processes and organizations' capacity to resolve conflicts, build consensus and improve advocacy efforts and dialogue with the State is included. Such work could perhaps be done in partnership with universities or international experts on these subjects. Furthermore, strengthening the capacity of ethnic organizations and authorities should include women, youth and LGBTI persons. Beyond strengthening organizations, improving the ability of ethnic leaders to transition from non-governmental to governmental and elected positions is required.

USAID's support for peace implementation must be differentiated so that it integrates the commitments made in the Ethnic Chapter. All groups emphasized the need to support the autonomous protection measures of their communities and to fortify peace in their territories. Also, assistance with the articulation and formulation of ethnic plans and sectorial territorial plans built upon the Colombian normative framework that upholds these communities collective land rights. USAID can also assist these communities by

helping to spur more private and community organization partnerships for economic development.

To guarantee a territorial peace in ethnic areas, the operationalization and proper functioning of the PDETs and PNIS are required. For the latter to work, a short-term, medium-term and long-term strategy is required by USAID. The indigenous and Afro-Colombian authorities and organizations in charge of designing, developing, operationalizing and monitoring implementation of the PDETs and PNIS require technical and other support to make sure these programs advance properly. For substitution programs to be successful, the commercialization of legal crops and generation of other sources of income is required.

### ***Gender and LGBTI Programming***

USAID is supporting women's and LGBTI organizations and efforts that advance the integration of a gender perspective within human rights, peace and justice in Colombia. However, there is concern that these efforts are at risk due to the conservative turns both the government and congress have taken. Also concerning are the profiles of persons whom Duque has appointed to both cabinet and ambassador positions that could greatly determine the future of how women, gender and LGBTI issues are addressed. The most flagrant example of a step backward in this regard is the appointment of Ordonez as Ambassador to the OAS. While the Vice President and several members of the cabinet are female, they are not exactly progressive in their views of women, gender and LGBTI rights. As a result, Colombia has a long way to go in becoming more inclusive.

USAID should increase efforts with indigenous women. It should do more to politically empower them, support their community spaces and organizations, and build their capacity to advocate for their needs and rights within internal indigenous structures and Colombia's institutions. Indigenous groups emphasize that women are fundamental in the transmission of culture, ancestral knowledge and identity. They are the most vulnerable group when it comes to conflict and violence.

### ***Justice Sector***

There is the perception that the USAID funded programs to strengthen the justice system (Attorney General and judicial authorities) fall short. To substantiate this point, respondents point to the high rate of impunity in human rights cases, especially those concerning attacks against human rights defenders. The criticism is that the programs focus too much on building the capacity of officials or beefing up the institutions and less on efforts to transform the institutions so that they provide results. Also, it is concerning that some of the entities supported by USAID take actions that are contrary to protecting the rights of



women and children and ethnic groups. USAID needs to take a step back and determine what is and isn't working and whether the activities it is supporting are leading to structural changes.

### ***Don't Forget About Victims and Land Restitution***

There is great concern that victims and land restitution efforts will be torpedoed by the Duque Administration with the argument that budgets need to be restricted. There are calls for funding cutting the national land agency's budget by 40% in 2019. This would be highly problematic in terms of titling efforts and also the formalization of coca substitution programs. Experts in the topic point out that there is a need to implement a multipurpose rural cadaster in the municipalities hardest hit by the conflict.

Several respondents highlight the need to strengthen displaced and victims' organizations at this time when efforts to guarantee truth, justice and non-repetition are under attack and so, efforts to sabotage the transitional justice are under attack. They emphasize that all concerning victims from the peace accord require a boost. Also, many noted that USAID invested so much in land restitution and this is falling by the wayside.

USAID and its operators need to be more self-critical about how they deal with these issues. There is a perception that IOM has given the Victims Unit funds without any major reflection or strategy. Also, that the program does not sufficiently support victims and land claimants, but more the government. The Harvard University study on this was useful because it was an independent and external study. However, it is believed that since the results were not in line with what USAID, IOM and the Colombian government expected, the report was not made public. In this, USAID lost a major opportunity to improve its programs. This was seen poorly by respondents and an example of a bad practice.

Sadly, now with the Duque administration properly correcting this will be even harder. Information on where the new government's plans vis a vis victims and land restitution is not promising. Under the guise of the need to reduce government spending, there is talk of eliminating the Victims Unit and other funds for victims. If a restructuring leads to humanitarian assistance being provided by the Direction of Prevention and Attention to Disasters, there is a risk of the mandate stipulated by the victims' law to be weakened significantly. Many wonder what type of actions USAID will take should this occur.

Beyond this, the land return process needs to occur in a manner that does not increase the security problems faced by land claimants and victims. Returns need to take into account environmental considerations such as addressing damage done to the territories, as well as, making sure the territory is apt so that returnees can cultivate it. Non-repetition

mechanisms are not integrated into the land return process making returns vulnerable to new displacements and evictions. Victims who are unable to return to their areas of origin require assistance with reintegration and projects to self-sustain themselves in areas of resettlement. Some organizations see this as a failed process and think USAID should just support national and international legal actions on behalf of victims to be able to get their lands back or receive compensation. USAID can also support efforts to raise awareness of the need for land restitution and victims' rights.

In terms of the indigenous, accompaniment in terms of determining activities, reparation and rights restoration strategies for victims are needed. Indigenous groupings would be willing to work with USAID on collective reparation and restoration strategies if USAID first defines a clear strategy on how it will support the JEP, Land Restitution Unit, and the Ethnic Direction of the Ministry of the Interior. Such a strategy must be done in the framework of guaranteeing implementation of the peace accord and with a view to consolidating peace in the territories. Once this is clearly defined and articulated, consultation process for how to best reestablish the rights of indigenous victims can be discussed and determined with the indigenous authorities.

The victims and land restitution process still has a long way to go to properly address women's rights. An area that is particularly weak is that of victims of sexual violence. Also, effective participation and guarantees for the rights of women land claimants are lacking. The work on this needs to be more focused in the territories and less in Bogota.

### ***Venezuelan Migrants and Their Needs***

While not a topic that forms part of the consultations, the situation of Venezuelan migrants and refugees and its impact on Colombia and its institutions is noteworthy. It also influences international cooperation towards Colombia. On this topic, WOLA released a [report](#) that includes multiple recommendations to the Colombian and U.S. government that should be considered. In September, WOLA organized with CEJIL at Georgetown University a forum on the Venezuelan exodus. That same week, over 50 civil society organizations from the region met over a period of days to put together a [plan of action](#) for addressing the Venezuelan humanitarian and migration crisis. We encourage USAID to regionally take into account the recommendations made in this document.

In terms of Colombia, it is important to emphasize three things. First, it is essential that funds are not diverted both at the international and national level from peace implementation to the Venezuelan crisis. Colombia will not be able to handle the influx any better if it is unable to fully implement peace in the areas where Venezuelans are arriving. Second, Colombia still has over 7 million internally displaced persons. Funds for Venezuelan

migrants need to be holistic and include assistance to displaced Colombians in areas where both populations overlap. The risk of human trafficking (sexual exploitation, forced labor and recruitment into illegal armed groups) is very high for this population so this issue needs to be integrated in efforts to protect and assist Venezuelan migrants in particular women, children and youth.

### ***Terrorism Restriction Still Hampers Aid***

The terrorism restrictions imposed on U.S. funding hampers USAID's ability to be able to address one of the most pressing needs in terms of peace accord implementation, which is the proper integration of former combatants into civilian life. In this sense, U.S. demands on Colombia are contradictory. On the one hand, the U.S. is pressuring Colombia to reduce the number of acres of coca that is under cultivation and to dismantle guerilla groups. On the other, it does not fund programs that specifically are set to achieve these goals.

This restriction does not allow for USAID to fully support the mandate of the JEP, the Truth Commission and the Unit for Disappeared Persons since their work must involve interaction and participation of former FARC combatants to be fully effective.

### ***Other Considerations***

Several organizations expressed the need for USAID and the U.S. Embassy to increase and diversify their dialogue with civil society outside of the formal consultations. Also it is recommended that USAID consider doing regional meetings with civil society to gain a more in depth understanding of the specific dynamics in particular areas of the country where its programing is implemented.

Again, we greatly appreciate the opportunity to engage in this on-going dialogue with USAID. Please let us know if further information or details are required.

Sincerely,



Gimena Sanchez  
Director for the Andes